The yodeler who sued Yahoo

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In the late '90s, the 'Yahoo Yodel' was inescapable.

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For a time, the 3-note audio clip — ***Ya-hooooooooo-oooo!*** —defined the young tech company: It came preloaded in Yahoo-branded bottle-openers, doorbells, and plush toys. It chimed through computer speakers. It made appearances in Super Bowl commercials, TV shows, and movies.

But the man who recorded this famous 3.5-second ballad was largely absent from the conversation. That is, until he sued Yahoo for copyright infringement.

This is the tale of an unlikely meeting between a one-time tech giant and a yodeler from the desolate western plains.

Born to yodel

Wylie Gustafson grew up in the "empty part of the country," a stretch of ranchland in Northern Montana 50 miles from the C

After long days tending to cattle, his fa and serenade the family with "cowboy storytelling and an occasional yodel.

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time in the Swiss Alps with Austrian athletes who'd given her a rare quarter-inch reel-to-reel instructional tape on the lost art form of yodeling.

Wylie (left) being serenaded by his father in the early 1960s (courtesy of Mr. Gustafson)

On long summer days in the early 1970s — the era of The Rolling Stones, Led Zeppelin, and Pink Floyd — Gustafson spent hours yodeling. In his room, he'd slow the tape down to half-speed and mimic the tone

By 13, he'd locked down the basics, fro
the "fancy cowboy yodels derived from

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A cowboy in the City of Angels

In 1986, at the age of 25, Gustafson mosied to the congested pastures of Los Angeles to try his hand at music.

LA, he soon realized, was a land of shticks. He needed some kind of distinguishing factor to set his band, **Wylie and the Wild West Show**, apart from the masses.

"One night in a bar, I went up on stage and just cranked out a yodel — and everyone stopped, put down their drinks, and listened," he says. "It was then that I realized the true power of the yodel."

In short order, Gustafson became known around town as the "yodeling guy."

Yodeling was once a big business. After famed country singer **Jimmy Rodgers** released "**Blue Yodel No. 1**" in 1928, America was gripped by a national yodeling craze that led to the rise of the singing cowboy trope in Western films. Recording artists in the '30s made big bucks *yodelay-heeeee-hooooo'n*.

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Gustafson jamming with his brother in 1976, at the age of 15 (courtesy of Mr. Gustafson)

Those days were long gone, but Gustafson happened to strike a fortuitous chord.

In the early 1990s, commercial advertisements were going for quirkiness. “Believe it or not, the two hottest trends in advertising were surf music and *yodeling*,” says Gustafson. “I became the go-to-yodeler for those ads.”

Gustafson was courted by Elias & Associates, an audio production facility which, throughout the decade, got his yodels featured in more than a dozen ad campaigns with brands like Bud Light, Sprint, Mitsubishi, Porsche, and Taco Bell.

Then, a few years into his career as a c
change his life.

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The yodel heard ‘rounc

"They said they had this little internet startup by the name of 'Yahoo' that was looking for a yodel," he recalls.

Founded **two years earlier** as "Jerry's Guide to the World Wide Web," **Yahoo** was one of the "pioneers of the early internet era." At the time, they had just had their initial public offering (IPO): Their shares were up 270%, and they were basking in the success of the tech boom.

Gustafson was told the company wanted to run a regional TV ad and was asked to come up with a yodel — "something light, funny, and ear-catching."

For national campaigns, Gustafson received union-scale pay, which meant lucrative **residuals** every time a commercial aired. But since the Yahoo spot was supposedly a *regional* commercial, he accepted a one-time payment of $590.38.

"I went down to a studio in LA, and in 10 minutes I knocked out probably 20 to 30 different 3-second yodels," he says. "Then, I went home and forgot all about it."

Gustafson

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"I jumped up and said, 'Wait a minute. That wasn't the deal.' He recalls. "Nobody had told me that Yahoo was going to make my yodel the defining sound of the company."

Since Gustafson had recorded his yodel, Yahoo had grown into a tech behemoth. The company's market cap had grown from less than $1B to **$115B**, and its stock price had skyrocketed 600%.

The yodel, it turned out, had come along for the ride.

Unbeknownst to Gustafson, his distinctive 3-note howl had achieved international fame: It was *everywhere* — on their **search page** (when you clicked on the exclamation point in the logo), in email inboxes (when you received an email), in audio-equipped bottle openers, and even in Hollywood movies (***Inspector Gadget***).

Gustafson felt cheated. He'd been told, in clear terms, that what he'd recorded was for a one-time regional commercial. Now, it was the signature audio slogan of one of America's fastest-growing tech companies.

Law-suuuuuuuu-uuuit

Shortly after the Super Bowl, Gustafson wrote a letter to Elias & Associates, the ad agency who'd set him up with the Yahoo gig.

They sent him a check for an additional $590.38 and considered the issue resolved.

But Gustafson didn't go away: Everywhere he turned, he heard his yodel — and over a period of two years, he sent Yahoo multiple letters demanding some type of action. The company never responded.

So, the yodeler lawyered up.

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Yahoo paraphernalia heavily marketed the yodel (via Yahoo)

In 2002, with the help of LA-based attorney, Larry Russ, Gustafson filed a **copyright** on his yodel (Registration No. SRU 455-556, appropriately dubbed "Wylie's Yahoo Yodel"), then filed a copyright claim against Yahoo. [The full complaint, shared for the first time with *The Hustle*, can be read in full **here**.]

Russ then staged a press release and got his yodeler's ordeal coast-to-coast coverage in every outlet from the ***Los Angeles Times*** to the ***New York Times***. In short order, Yahoo was swimming in a mountain of bad press.

"They deserved it," Russ tells us. "They paid him a few hundred dollars for what became a hallmark of their company f

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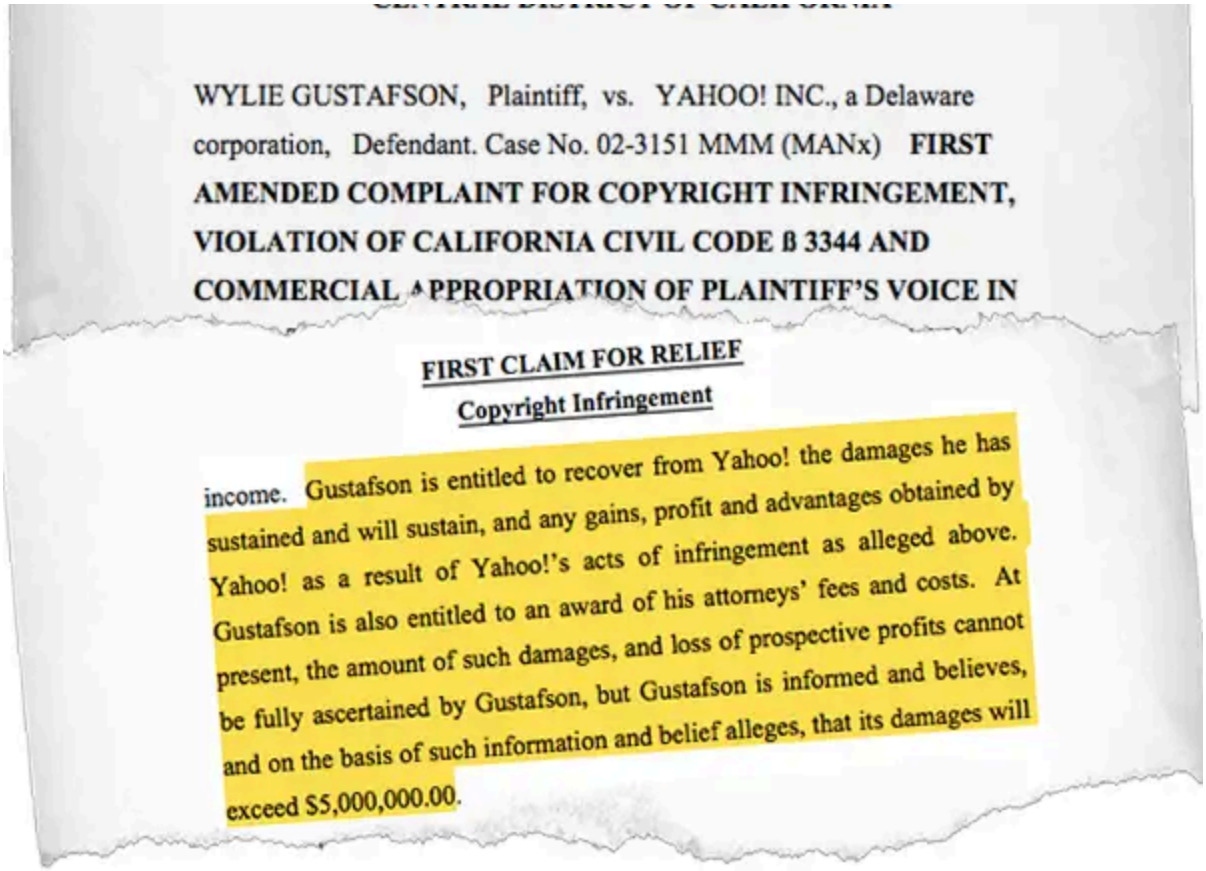

WYLIE GUSTAFSON, Plaintiff, vs. YAHOO! INC., a Delaware corporation, Defendant. Case No. 02-3151 MMM (MANx) **FIRST AMENDED COMPLAINT FOR COPYRIGHT INFRINGEMENT, VIOLATION OF CALIFORNIA CIVIL CODE ß 3344 AND COMMERCIAL APPROPRIATION OF PLAINTIFF'S VOICE IN**

FIRST CLAIM FOR RELIEF

Copyright Infringement

income. Gustafson is entitled to recover from Yahoo! the damages he has sustained and will sustain, and any gains, profit and advantages obtained by Yahoo! as a result of Yahoo!'s acts of infringement as alleged above. Gustafson is also entitled to an award of his attorneys' fees and costs. At present, the amount of such damages, and loss of prospective profits cannot be fully ascertained by Gustafson, but Gustafson is informed and believes, and on the basis of such information and belief alleges, that its damages will exceed $5,000,000.00.

Documents via Gustafson's complaint (via Mr. Gustafson)

Within days, an assistant general counsel for Yahoo was on a plane to meet with Russ; the matter was settled over breakfast.

Neither Gustafson nor Russ could confirm the settlement amount (both parties signed a non-disclosure), but Gustafson says it was a "life-changing amount of money."

"Originally, we had asked for $5 million," says Gustafson. "The final amount wasn't quite there, but it was a pretty good fraction of that."

Gustafson, who'd been earning a living touring with his band 300+ days per year, was able to dramatically cut back his time on the road, build a new horse arena, and kick up his boots on his Montana ranch.

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Riding off into the sun

As part of the agreement, Yahoo was g
copyright — and they took full advanta

Wylie Gustafson yodeling his heart out in the ethereal plains (via Mr. Gustafson)

The cowboy stayed involved with Yahoo over the years, commuting to California for the occasional **promotional event** or office talk, but each time he returned, the company seemed to be in a deeper state of flux.

"I'd go there and get to know some of the employees," he says. "Then, I'd go back a year later and everyone would be gone. Yahoo was going through a lot of people." Eventually, the Yahoo Yodel died in the wind, an ephemeral yawp lost in the translation of executive shuffles.

In more than 30 years of performing — a career including shows at the famed **Grand Ole Opry**, appearances on **A Prairie Home Companion**, and a prestigious deal with Rounder Records — the Yahoo Yodel endures as Gustafson's enduring claim to fame.

"As a songwriter, I always dreamed of getting that one 3-minute hit," he says. "Turns out, mine was 3 notes."

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